

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT SP 2017-5 & SITE PLAN APPROVAL
MODIFICATION #2**

**REGISTERED MARIJUANA DISPENSARY AND ADULT USE MARIJUANA
CULTIVATION & PROCESSING**

**NATURE'S REMEDY OF MASSACHUSETTS, INC. (APPLICANT)
8 MILLENNIUM DRIVE, NORTH GRAFTON, MA**

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Decision of the Planning Board of the Town of Grafton, Massachusetts (hereinafter the BOARD) on the petition of Nature's Remedy of Massachusetts, Inc. (hereinafter the APPLICANT) for Modification of Special Permit & Site Plan Approval 2017-5 to extend the period to construct a Registered Marijuana Dispensary and to allow adult use marijuana cultivation and processing on property located at 8 Millennium Drive (hereinafter the SITE) and shown on the Grafton Assessor's Map 5, Lot 1.J, and owned by Valiant Enterprises, LLC (hereinafter the OWNER) by deeds recorded in the Worcester District Registry of Deeds Book 57943, Page 270 and Book 57943, Page 275.

I. BACKGROUND

The Planning Board approved a special permit application for the construction of a 32,500-square foot building (26,100 square feet for the initial phase) for a Registered Marijuana Dispensary in its September 27, 2017 Special Permit & Site Plan decision. The approval allows the Applicant to engage in medical marijuana cultivation, processing, and dispensing. On July 25, 2018 the Applicant submitted an application for a Modification of the Special Permit to request a one-year extension to construct its Registered Marijuana Dispensary. On January 14, 2019 the Board voted to modify the special permit to extend the time for commencement of construction to September 27, 2019 (Special Permit 2017-5.1).

On November 12, 2019 the applicant submitted an Application for a Special Permit and Site Plan Approval (hereinafter Application) to: 1) request an additional one-year extension for completion to September 27, 2020; and 2) to add adult use marijuana cultivation and processing. Notice of the public hearing and the subject matter thereof was published in the Grafton News on November 21 and 28, 2019, and posted with the Town Clerk's Office on November 12, 2019. Abutters received notification by First Class Mail.

A public hearing on the Application was opened on December 9, 2019 and continued to January 13, 2020 and January 27, 2020. The following Board members were present throughout the public hearing process where testimony was received: Chair David Robbins, Vice Chair Robert Hassinger, Member Linda Hassinger, Member Prabhu Venkataraman, Member Justin Wood (via Mullin Rule certification for January 27) and Associate Member Vikram Dave. Throughout the public hearing, all those wishing to speak to the petition were heard. Following public input, the hearing was closed on January 27, 2020.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

- EXHIBIT 1.** Application for a Special Permit (SP 2017-5.2) received on November 12, 2019, Stamped by the Town Clerk's Office on November 12, 2019, 4 pages.
- EXHIBIT 2.** Public Hearing Notice, for publication in the Grafton News on November 21 and 28, 2019, 1 page.
- EXHIBIT 3.** Email, Subject: SP 2017-5.2, From Nancy Connors of the Grafton Health Department stating that the Department has no comments at this time.
- EXHIBIT 4.** Email, Subject: 8 Millennium Drive – Valiant Enterprises, LLC – Modification of Special Permit, From Barry Smith, 7 Garden Street, Grafton, dated and received on November 20, 2019, 1 page.
- EXHIBIT 5.** Email, Subject: 8 Millennium Drive – Valiant Enterprises, LLC – Modification of Special Permit, From K. Koshivos of the Grafton, ZBA, dated and received November 21, 2019, stating that the ZBA has no comments, 1 page.
- EXHIBIT 6.** Staff Review of 8 Millenium Drive, From Joseph Laydon, Town Planner, dated December 6, 2019, 2 pages, plus an attachment of Special Permit Decision 2017-5, 13 pages.
- EXHIBIT 7.** Public Hearing Continuance request for January 13, 2020, dated December 9, 2019, 1 page.
- EXHIBIT 8.** Public Hearing Sign-In Sheet, December 9, 2019.
- EXHIBIT 9.** Email, Subject: 8 Millennium Drive – Valiant Enterprises, LLC – Modification of Special Permit, from Seetharaman Ganesan, 28 Seaver Farm Lane, South Grafton, dated and received December 10, 2019, 2 pages.
- EXHIBIT 10.** Letter "Extension of Special Permit & Site Plan Approval", from Robert C. Carr, Jr., dated January 4, 2020, 1 page.
- EXHIBIT 11.** Memo from the Town Planner, Joseph Laydon, "8 Millennium – Nature's Remedy", dated January 10, 2020, 1 page, with 6 pages of email correspondence.
- EXHIBIT 12.** Comment from Seetharaman Ganesan, 28 Seaver Farm Lane, South Grafton, dated and received January 13, 2020, 6 pages.
- EXHIBIT 13.** Public Hearing Sign-In Sheet, January 13, 2020.
- EXHIBIT 14.** Public Hearing Continuance Request, January 13, 2020.
- EXHIBIT 15.** "5.10.3 Application Requirements for a Marijuana Establishment", received January 23, 2020, 98 pages.

EXHIBIT 16. Mullin Rule Certification for Planning Board meeting of January 27, 2020, signed by Planning Board Member Justin Wood, dated and received on February 4, 2020.

EXHIBIT 17. Public Hearing Continuance Request, January 27, 2020.

III. REQUEST FOR EXTENSION OF TIME

Nature's Remedy operates a marijuana cultivation facility in Lakeville, Mass., an adult use marijuana retail store in Millbury, Mass., and has approval for an adult use retail store in Tyngsboro, Mass. Since obtaining its approval in Grafton, it had been occupied with the details of permitting through the Mass. Cannabis Control Commission (CCC) and constructing those facilities while holding back on advancing its Grafton facility. Over the past several months, the Applicant made a decision to add adult use marijuana to its Grafton location and it has engaged in the required permitting with the CCC. The Applicant petitioned the Select Board to modify its Host Community Agreement (HCA), to allow cultivation and processing of adult use marijuana, while retaining its medical marijuana cultivation and processing approval, but abandoning its medical marijuana dispensary. The Select Board and Applicant have executed the HCA. Thus, there will be no retail sales of either medical or adult use marijuana at its 8 Millennium Drive location.

At the public hearing on January 13, 2020, the Planning Board considered the petition to extend the time period for constructing its Grafton facility for one year to September 27, 2020. In recognition of the Applicant's efforts to re-negotiate its HCA with the Select Board and its continued progress in permitting with the CCC, the Planning Board informally agreed to extend the time of completion to September 27, 2020. The Board continued the hearing to January 27, 2020 to consider the Applicant's petition to modify the special permit to add adult use marijuana cultivation and processing.

IV. REQUEST TO MODIFY SPECIAL PERMIT 2017-5 TO ADD ADULT USE MARIJUANA CULTIVATION AND PROCESSING

The application for a Registered Marijuana Dispensary in 2017 was the subject of a thorough review by the Planning Board, municipal departments, and consultants. Nature's Remedy's current application does not call for any changes to the site plan as a result of adding adult use marijuana cultivation and processing. The Applicant has stated that the project may require a second floor to allow for business expansion, but that decision has not yet been made. The removal of the retail medical marijuana dispensary only requires interior building modifications with no physical changes to the site. Parking locations, vehicle access, stormwater controls, landscaping, etc. require no modifications at this time. In addition, the Board acknowledges that trip generation to and from the site will be lower without the retail component.

V. FINDINGS

At their meeting of February 10, 2020, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Robert Hassinger, seconded by Justin Wood), voted 5-0 to make the following Findings:

- F1.** The applicant is requesting an extension of the time period for constructing its facility for one year from the previous deadline, to September 27, 2020.
- F2.** Since at least as early as March 2019, the applicant has been preparing to revise the project to include adult use marijuana cultivation and manufacturing (Exhibits 10 and 11).
- F3.** The applicant has executed a Host Community Agreement, including adult use marijuana cultivation and manufacturing, with the Town of Grafton (Exhibit 10).
- F4.** During the public hearing, the applicant stated that the retail sales component of the Registered Marijuana Dispensary approved by SP 2017-5 will be eliminated from the proposed use and the plans revised on a future date to reconfigure the interior of the building to eliminate the retail sales area.
- F5.** During the public hearing, the applicant stated that the proposed hours of operation will change due to the elimination of retail sales and possible expansion of cultivation and manufacturing operating hours, and that a revised statement of proposed hours of operation will be developed on a future date.
- F6.** During the public hearing, the applicant stated that a second floor may be added to the proposed building on a future date, to accommodate a larger cultivation and manufacturing operation without expanding the proposed building footprint.
- F7.** The subject property is located in the Office/Light Industry (OLI) zoning district.
- F8.** Subsequent to the issuance of SP 2017-5, the Grafton Zoning Bylaw (ZBL) was amended to allow adult use marijuana cultivation and manufacturing in the OLI zoning district and to specify application requirements, required findings, and conditions for such uses (ZBL Section 5.10).
- F9.** The applicant has submitted all information required by ZBL Section 5.10.3.b (Exhibit 15).
- F10.** The traffic study submitted in accordance with ZBL Section 5.10.3.b item 7 is the traffic study that was submitted for the originally proposed Registered Marijuana Dispensary. Due to the elimination of the retail sales component, trip generation for the revised use will be lower than shown in the traffic study.
- F11.** With regard to ZBL Section 5.10.8.a, the applicant has not received the required license from the CCC, but upon receiving such license, and satisfying any other permitting requirements, will

have met all permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations.

- F12.** With regard to ZBL Section 5.10.8.b, the Board, in SP 2017-5, found that the proposed use had received a provisional certificate of registration for a Registered Marijuana facility, complying with 105 CMR 725.00.
- F13.** With regard to ZBL Section 5.10.8.c, the proposed use is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- F14.** With regard to ZBL Section 5.10.8.d, the absence of a retail component of the proposed use avoids the need for a secure waiting area.
- F15.** With regard to ZBL Section 5.10.8.e, security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation of marijuana is secured in enclosed, locked facilities, will be adequate, provided said security measures are approved by the CCC.
- F16.** With regard to ZBL Section 5.10.8.f, the proposed use adequately addresses issues of vehicular and pedestrian traffic, circulation, parking and queuing, especially during peak periods at the facility, and adequately mitigates the impacts of vehicular and pedestrian traffic on neighboring uses. With no retail sales on premises, minimal pedestrian traffic is anticipated, and vehicular traffic will be primarily employees and shipping/receiving.
- F17.** With regard to Findings F16 through F26, included in Special Permit SP 2017-5, as filed with the Grafton Town Clerk on September 6, 2017, and recorded in the Worcester District Registry of Deeds, Book 57846 Page 227, the Board found that the above-mentioned Findings, pertaining to Section 1.5.5(a) through Section 1.5.5(j), shall be included by reference upon the Board's approval of the Special Permit Modification.

VI. DECISION

Accordingly, on February 10, 2020, on a motion to approve the application, made by Mr. Robert Hassinger, seconded by Mr. Justin Wood, the Planning Board voted 5-0 to approve the modification of Special Permit 2017-5 by extending the deadline for completion to September 27, 2020, adding adult use marijuana cultivation and manufacturing to the proposed use, and identifying the applicant as "Nature's Remedy of Massachusetts, Inc." as was originally set forth in Special Permit SP 2017-5, with the following conditions:

1. This Decision modifies Condition #1 of Special Permit SP 2017-5.1, dated January 14, 2019, recorded in the Worcester District Registry of Deeds, Book 60033 Page 111, to allow an extension of the time period to construct, extending the deadline for completion to September 27, 2020.

*DECISION - GRAFTON PLANNING BOARD
Special Permit (SP 2017-5) & Site Plan Approval
Registered Marijuana Dispensary and Adult Use Marijuana Cultivation & Processing
8 Millennium Drive, North Grafton, MA
Nature's Remedy of Massachusetts, Inc. (Applicant)
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2. Per ZBL Section 5.10.9.a, Special Permit 2017-5, as modified by this and prior Decisions, is non-transferable and shall have a term limited to the duration of the applicant's continued operation at the premises for the uses granted herein.
3. Per ZBL section 5.10.9.b, all material, plants, equipment, and other paraphernalia shall be removed from the facility in compliance with 105 CMR 725.105 (J) and (O) prior to the expiration of its DPH Registration, immediately following revocation or voiding of its DPH Registration, or following the expiration, revocation or voiding of its license issued by the CCC.
4. No retail sales to the public shall occur on the site.
5. Changes to the plans or conditions (including hours of operation) authorized by SP 2017-5, as modified by this and prior Decisions, may be made only upon authorization from the Planning Board. Requests for such change(s) shall be submitted in writing to the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not a substantial change and is consistent with the intent and purpose of this Decision. Any proposed change deemed substantial in nature shall require a modification of the original Special Permit and Site Plan Approval application and decision.
6. Per ZBL Section 5.10.8.b, copies of registrations and licenses and a copy of a signed Host Agreement with the Town of Grafton, in accordance with M.G.L. Chapter 94G and subsequent regulations, shall be provided to the Building Commissioner prior to the issuance of a Certificate of Occupancy.
7. This Modification of the Special Permit (SP 2017-5) shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and a copy provided to the Planning Board and the Building Department. Said copy shall include recording information such as the WDRD Book and Page Number and/or Instrument Number.
8. All Conditions and requirements of Special Permits SP 2017-5 and 2017-5.1, unless modified by this Decision, shall remain in full force and effect.

V. RECORD OF VOTE

Constituting a super majority of the Planning Board, the following members voted 5-0 to **APPROVE** the Special Permit (SP 2017-5-2) & Site Plan Approval – Modification #2 with Conditions to allow cultivation and processing of medical and adult use marijuana based on the information received at the public hearing and the aforementioned findings.

<u>David Robbins, Chair</u>	<u>AYE</u>	<u>Robert Hassinger, Vice Chair</u>	<u>AYE</u>
<u>Linda Hassinger, Member</u>	<u>AYE</u>	<u>Prabhu Venkataraman, Member</u>	<u>AYE</u>
<u>Justin Wood, Clerk</u>	<u>AYE</u>		

*DECISION - GRAFTON PLANNING BOARD
Special Permit (SP 2017-5) & Site Plan Approval
Registered Marijuana Dispensary and Adult Use Marijuana Cultivation & Processing
8 Millennium Drive, North Grafton, MA
Nature's Remedy of Massachusetts, Inc. (Applicant)
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DATE OF FILING OF DECISION:

BY ORDER OF THE BOARD



Christopher McGoldrick, Town Planner



Date

- | | |
|----------------------|---------------------------|
| • Applicant / Owner | • Building Inspector |
| • Assessor | • Conservation Commission |
| • Graves Engineering | |

To Whom It May Concern: This is to certify that the 20 day appeal period has passed and there have been no appeals made to this office.

Kandy Lavallee, Town Clerk

Date